

STATE OF MICHIGAN
COURT OF APPEALS

In re T. R. RIOS, Minor.

UNPUBLISHED
July 19, 2016

No. 330395
Mason Circuit Court
Family Division
LC No. 15-000038-NA

Before: MURRAY, P.J., and SAWYER and METER, JJ.

PER CURIAM.

Respondent-father appeals as of right the October 23, 2015, order terminating his parental rights to a minor child under MCL 712A.19b(3)(b)(i) (parent caused physical injury or physical or sexual abuse of the child or a sibling of the child, and the child will likely suffer from injury or abuse if returned to the parent), (j) (reasonable likelihood that the child will be harmed if returned to the parent), and (k)(ix) (parent engaged in sexual contact or penetration with the child or the child’s sibling). We affirm.

On March 25, 2003, father pleaded no contest to second-degree criminal sexual conduct. Specifically, father pleaded no contest to allegations that he sexually abused his adopted daughter from August 1996 until June 2001, when she was between the ages of 8 and 13. Father was subsequently incarcerated for approximately the next six years. While in prison, he engaged in numerous programs to improve himself. After his release from prison, he got married. From this marriage, the minor child was born, in June 2015. Three days after the child’s birth, she was removed from father and mother’s custody because of father’s history of sexual abuse and because of the prior termination of mother’s parental rights to her other minor children. Mother is not a party to this appeal.

“In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met.” *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). Father makes no argument on appeal with regard to the trial court’s findings regarding statutory grounds, and we find ample evidence on the record to support the trial court’s findings regarding statutory grounds. Rather, father makes the unpreserved argument that he should have been provided with services to address the barriers to reunification. However, reasonable efforts at reunification are not mandated where a “parent is required by court order to register under the sex offenders registration act.” MCL 712A.19a(2)(d). Father testified at the termination hearing that he would be a registered sex offender for 25 years, and he does not dispute this on appeal. Therefore,

efforts at reunification were not required, and father has not established plain error in that regard. *Rivette v Rose-Molina*, 278 Mich App 327, 328-329; 750 NW2d 603 (2008) (discussing the plain-error doctrine).

Father also argues that his constitutional rights were violated by petitioner's refusal to provide him with services. However, after statutory grounds for termination of his parental rights were established—an establishment that he does not dispute on appeal—his constitutionally protected interest in the minor child was diminished. See, generally, *In re Trejo*, 462 Mich 341, 355-356; 612 NW2d 407 (2000), abrogated in part on other grounds as stated in *In re Moss*, 301 Mich App 76, 83; 836 NW2d 182 (2013). With regard to any potential constitutional violation caused by petitioner's failure to provide father with services, as discussed above, father was not entitled to services; father provides no colorable explanation regarding how petitioner's failure to provide services violated his constitutional rights and has thus abandoned his argument. See *Houghton ex rel Johnson v Keller*, 256 Mich App 336, 339-340; 662 NW2d 854 (2003).

In addition, father argues that the trial court erred in refusing to provide him with parenting time. This argument lacks merit. Petitioner submitted an amended petition on June 26, 2015, seeking termination of father's parental rights to the child. "Once a termination petition is filed, parenting time is then governed by MCR 3.977(D) and MCL 712A.19b(4)." *In re Laster*, 303 Mich App 485, 488; 845 NW2d 540 (2013). Both MCR 3.977(D) and MCL 712A.19b(4) state that "[i]f a petition to terminate parental rights to a child is filed, the court may suspend parenting time for a parent who is a subject of the petition." "The suspension of parenting time once a petition to terminate parental rights is filed requires no finding of harm and is presumptively in the child's best interest" *In re Laster*, 303 Mich App at 489. Because petitioner sought termination of father's rights, the trial court was not required to provide father with parenting time. MCR 3.977(D); MCL 712A.19b(4).

"Once a statutory ground for termination has been proven, the trial court must find that termination is in the child's best interests before it can terminate parental rights." *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012). When considering best interests, the focus is on the child rather than the parent. *In re Moss*, 301 Mich App at 87-88. "The trial court should weigh all the evidence available to determine the [child's] best interests." *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014). The trial court may consider such factors as "the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home[.]" *In re Olive/Metts*, 297 Mich App at 41-42 (citations omitted). Other factors that the trial court can consider include how long the child has lived in foster care or with relatives and the likelihood that "the child could be returned to [the] parent's home within the foreseeable future, if at all." *In re Frey*, 297 Mich App 242, 248-249; 824 NW2d 569 (2012).

The trial court found that termination of father's rights was in the child's best interests because there was no bond between father and the child, father entered into a relationship with mother and had the child when mother's other children were involved with petitioner, father had a drunken driving conviction after his 2009 release from prison, and the child was in a good placement with a relative. The trial court's findings were not clearly erroneous.

Clearly there was no bond between father and the child. Father's only contact with her was for the three days between her birth and her removal. Father argues that the lack of a bond was the result of parenting time not having been provided to him. Indeed, the trial court recognized that this was so. However, as discussed above, father was not entitled to parenting time because petitioner sought termination of his parental rights, and the trial court acknowledged that the lack of a bond "relates back to the conduct" of father. Further, the trial court also found that father exercised poor judgment when he married mother and had the minor child while mother's other minor children were involved with petitioner. The trial court's finding that termination was in the child's best interest was further supported by father's admission that he was convicted of drunken driving after his 2009 release from prison—a fact that is particularly troublesome in light of evidence that father sexually abused his adopted daughter from 1996 through 2001 while under the influence of alcohol. Moreover, the trial court found that the child was "in a good placement[.]" Evidence showed that the child was placed with her grandmother, the grandmother had custody of two of the child's siblings, and the grandmother was willing to adopt the child.

Father argues that termination of his parental rights was not in the child's best interests because he had stable employment and he had taken measures to improve himself. Evidence showed that father was gainfully employed and that he took several classes to address his behavior and understanding. However, "[t]he trial court should weigh all the evidence available to determine the [child's] best interests." *In re White*, 303 Mich App at 713. Father's employment and efforts at self-improvement did not render the trial court's findings regarding the child's best interests erroneous. The trial court did not clearly err in finding that termination of father's parental rights was in the child's best interests. *In re Trejo*, 462 Mich at 356-357.

Affirmed.

/s/ Christopher M. Murray
/s/ David H. Sawyer
/s/ Patrick M. Meter